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CASES CITED

People Ex. Rel. vs. Harrington 21 Ill. 2d 224, (171 N.E. 2d 647)

People vs. Circuit Court of Cook County 169 Ill. 201 (48 N.E. 717)

North Chicago Congregation vs. Board of Appeals 358 Ill. 549 (193 N.E. 519)

People Ex. Rel. Woll vs. Bruber 394 Ill. 362 (68 N.E. 2d 750)

People vs. Superior Court of Cook County 359, Ill. 612 (195 N.E. 517)

IN THE

Supreme Court of the United States

OCTOBER TERM, A.D. 1970.

No. 1126

PEOPLE OF THE STATE OF ILLINOIS,
ex. rel. PETER S. SARELAS,

Petitioner,

vs.

BOARD OF MANAGERS AND COMMITTEE ON
GRIEVANCES OF THE CHICAGO BAR
ASSOCIATION, AS COMMISSIONERS OF
THE SUPREME COURT OF ILLINOIS,

Respondents.

OPINION OF THE COURT BELOW

The opinion of the Court below consists of an Order, dated September 18, 1970, entered by the Supreme Court of Illinois denying leave to Peter S. Sarelas to file a petition for an original Writ of Prohibition. (Appendix I).

QUESTION PRESENTED

Did the Illinois Supreme Court abuse its discretion in denying leave to Petitioner to file a petition for an original Writ of Prohibition?

CONSTITUTIONAL PROVISION INVOLVED

It is respectfully submitted that no Constitutional provision is involved.

STATEMENT OF THE CASE

A disciplinary proceeding was instituted against Respondent, an attorney licensed to practice before the bar of the State of Illinois, before the Grievance Committee of the Chicago Bar Association, sitting as Commissioners of the Supreme Court of Illinois pursuant to Supreme Court Rule 752 (Appendix II).

At the conclusion of proceedings before said Grievance Committee, sitting as Commissioners, the Commissioners found that Respondent had been guilty of conduct tending to bring the bench and bar into disrepute and a recommendation was made that Respondent be disbarred (Appendix III). Upon review of said proceedings before the Board of Managers of the Chicago Bar Association, also sitting as Commissioners of the Supreme Court of Illinois, said findings and recommendation of discipline was approved and the report of the proceedings was forwarded to the Illinois Supreme Court for its consideration (Appendix IV).

After the forwarding of the report to the Illinois Supreme Court, Petitioner filed a Motion asking leave to file a petition for an original Writ of Prohibition. Said Motion was denied and Petitioner has now filed in this Court a Petition for a Writ of Certiorari to the Supreme Court of Illinois to review its said Order.

ARGUMENT

The Respondents do not constitute an independent tribunal but are Commissioners of the Supreme Court of Illinois appointed to receive, investigate and take evidence concerning complaints against attorneys-at-law and thereafter submit findings of law and fact and recommendations

for action by the Supreme Court. Sections a and c of Illinois Supreme Court Rule 751. (Appendix II).

The Writ of Prohibition is an extraordinary Writ directed by a superior court to an inferior court to prevent the latter from exercising jurisdiction with which it has not been vested by law or, from exceeding the jurisdiction with which it has been vested. People Ex. Rel. v. Harrington 21 Ill 2d 224, (171 N.E. 2d 607); People v. Circuit Court of Cook County 169 Ill. 201 (48 N.E. 717).

The power to issue original writs is discretionary and is to be invoked only when necessary to protect the rights, interests and franchises of the State or the rights and interests of the whole people; or to enforce performance of high official duties which affect the public at large and where an emergency exists, as determined by the Court itself. Such jurisdiction will be exercised to protect local public interests or private rights only if there is no other adequate remedy or where it is necessary to prevent a failure of justice. North Chicago Congregation vs. Board of Appeals 358 Ill. 549 (193 N.E. 519). People Ex. Rel. Woll vs. Braber 394 Ill. 362 (68 N.E. 2d 750); People vs. Superior Court of Cook County 359, Ill. 612 (195 N.E. 517).

In the instant case Petitioner has attempted to have the Illinois Supreme Court prohibit its fact-finding arm from performing its legally established duty. Not only would such action impair the Court's ability to effectively perform its work, but the Court would be entering an Order against itself to curtail disciplinary proceedings involving members of the Bar. Petitioner has ample opportunity to be heard when the Findings and Recommendations of the Respondents are considered by the Illinois Supreme Court, and he

may take whatever action he deems appropriate at that time.

The Illinois Supreme Court had the prerogative to delegate certain of its investigative activities to the Respondents and it has done so. (Sup. Ct. Rule 751). Before the Illinois Constitutional Amendments of 1964, the Constitution of the State of Illinois did not provide for a Writ of Prohibition as one of the original remedies available in the Supreme Court, and the Writ of Prohibition could, at that time, only be used as an aid to the appellate jurisdiction of the Courts to protect and to enforce said appellate jurisdiction. People v. Circuit Court of Cook County 169 Ill. 201 (48 N.E. 717); People v. Superior Court of Cook County, supra.

Since the 1964 amendment of the Judicial Article of the Illinois Constitution, Article VI, Sec. 5, specifically provides that a Writ of Prohibition can be an additional original remedy available in the Illinois Supreme Court. Although no judicial definition of the Writ has yet been set forth, it is to be expected that this remedy, as in the case of all other original remedies available to the Illinois Supreme Court, will be treated in a somewhat similar fashion. Traditionally, the granting of original Writs has been held to be completely discretionary with the Court requested to issue such Writ.

In sum, we have this: (a) The granting or denying of the Writ rests in the sound discretion of the Court and no abuse of that discretion is shown; (b) All remedies under state law have not been exhausted since the proceedings provided for under Illinois Supreme Court Rule 751 are not yet completed; (c) Petitioner's request for a Writ of Prohibition was a request that the Illinois Supreme Court prohibit itself (and its agents) from continuing with the fact-finding function provided by the Court's own rules.

CONCLUSION

Based on the foregoing, it is respectfully submitted that the Illinois Supreme Court did not abuse its discretion and that the Petition for Writ of Certiorari requested of this Court be denied.

Respectfully submitted,

John Cadwalader Meek
29 South La Salle Street
Chicago, Illinois 60603

Heretofore appearing as amicus curiae in the Supreme Court of Illinois for the Board of Managers and the Committee on Grievances of the Chicago Bar Association, Sitting as Commissioners of the Supreme Court of Illinois under Illinois Revised Statutes c. 110A § 751 (1967).

APPENDIX I

UNITED STATES OF AMERICA

STATE OF ILLINOIS
SUPREME COURT } ss.

AT A TERM OF THE SUPREME COURT, begun and held in Springfield, on Monday, the fourteenth day of September in the year of our Lord, one thousand nine hundred and seventy, within and for the State of Illinois.

PRESENT: ROBERT C. UNDERWOOD, CHIEF JUSTICE

JUSTICE WALTER V. SCHAEFER JUSTICE THOMAS E. KLUCZYNSKI

JUSTICE DANIEL P. WARD JUSTICE JOHN T. CULBERTSON, JR.

JUSTICE CASWELL J. CREBS JUSTICE MARVIN F. BURT

WILLIAM J. SCOTT, ATTORNEY GENERAL

ROBERT G. MILEY, MARSHAL

ATTEST: JUSTIN TAFT, CLERK

BE IT REMEMBERED, that, to-wit: on the 18th day of September A.D. 1970, the same being one of the days of the term of Court aforesaid, the following proceedings were, by said court, had and entered of record, to-wit:

IN RE:

PETER S. SARELAS, AN ATTORNEY } Commissioner's No. 1369

No. 43138

And now, on this day, the Court having duly considered the motion by Peter S. Sarelas for leave to file a petition for an original writ of prohibition, and being now fully advised of and concerning the premises;

IT IS HEREBY ORDERED that the motion by Peter S. Sarelas for leave to file a petition for an original writ of prohibition be, and the same is, denied.

I, JUSTIN TAFT, Clerk of the Supreme Court of the State of Illinois and keeper of the records, files and Seal thereof, do hereby certify that the foregoing is a true copy of an order of the said Supreme Court in the above entitled cause of record in my office.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the Seal of said Court this 8th day of December, A.D. 1970.

JUSTIN TAFT, Clerk,

Supreme Court of the State of Illinois.

APPENDIX II

ILLINOIS SUPREME COURT RULES

Part B. Discipline of Attorneys

Rule 751. Proceeding to Strike Attorney's Name from Roll

(a) The Board of Governors and its existing Committee on Grievances, and their successors as such, of the Illinois State Bar Association, and the Board of Managers and its existing Committee on Grievances, and their successors as such, of the Chicago Bar Association, are hereby appointed as Commissioners of the Supreme Court and are empowered and charged to make investigations from time to time, as may be necessary, concerning practices of attorneys at law which tend to defeat the administration of justice or to bring the courts and the legal profession into disrepute. To this end, these commissioners are further empowered and charged to receive, entertain, inquire into, and take proof concerning complaints against attorneys at law of this state, and may call to their assistance in such inquiries other members of the bar or bar associations of the state, may make all necessary rules and regulations concerning the conduct of such inquiries, and may themselves, or by such committees as they may designate, take the evidence of witnesses, as hereinafter provided.

(b) No complaint against an attorney at law shall be entertained unless it is signed by the person or persons aggrieved or by the president and secretary of a regularly organized bar association or by the chairman of a regularly appointed committee of the Chicago or Illinois State Bar Associations and unless it is sufficiently clear and specific in its charges as reasonably to inform said attorney at law of the acts of misconduct he is claimed to have committed.

(c) When a member of the bar, designated by the Board of Governors of the Illinois State Bar Association or the Board of Managers of the Chicago Bar Association so to do, shall file in the office of the clerk of the Supreme Court an affidavit showing that any respondent resides or has gone out of this state or on due inquiry cannot be found, or is concealed within this state, so that process cannot be served upon him, and stating the place of residence of such respondent, if known, or that upon diligent inquiry his place of residence cannot be ascertained, and stating his last known place of residence, the clerk of the Supreme Court shall cause publication to be made in some newspaper of general circulation published in the county of respondent's place of residence or last known place of residence in this state, as set forth in such affidavit, containing notice of the pendency of the proceeding, the names of the complainant and the respondent, the title of this Court and that of the commissioners of the Court (the members of the Board of Governors and Committee on Grievances of the Illinois State Bar Association or of the Board of Managers and the Committee on Grievances of the Chicago Bar Association, as the case may be) and the time and place of the hearing of the case. He shall also within ten days from the first publication of such notice send a copy thereof by mail, addressed to such respondent whose residence or last known place of residence is stated in such affidavit. The certificate of the clerk that he has sent such copy in pursuance of this provision shall be evidence. Such notice shall be published for three consecutive weeks, the first insertion of which shall be at least thirty days before the date upon which the said cause shall be set for hearing by the commissioners; and unless said time has intervened no proceedings therein shall be had, but the said cause shall stand continued to a date at least thirty days after the said first date set for hearing,

provided, that in case the respondent appears and consents to the hearing the cause may be heard at an earlier time.

(d) Upon application by such commissioners, or committees, the clerk of the Supreme Court shall issue writs of subpoena ad testificandum, writs of subpoena duces tecum, or dedimus potestatem to take depositions. The commissioners and their committees are empowered to take and transcribe the evidence of witnesses, who shall be sworn by a commissioner or any person authorized by law to administer oaths, and the commissioners shall report to the Supreme Court the failure or refusal of any person to attend and testify in response to any subpoena. The hearings before the commissioners or committees shall be private unless the respondent shall request that they be public.

(e) At the conclusion of a hearing upon any complaint against any attorney before such commissioners or committees, the Board of Governors or Board of Managers, as the case may be, shall, if action by the Supreme Court of any kind is recommended, make report to the Supreme Court of its conclusions of fact and law concerning the complaint, answer, and proof; and thereupon such matters shall stand for hearing and disposition in this Court. Such report shall be entered on the docket and entitled in the name of the respondent. Upon the filing of any such report with proof of service of a copy thereof on the respondent in the same manner as briefs are required by rule of the Supreme Court to be served, the respondent therein shall have ten days from the date of such filing to file exceptions thereto, and shall, within twenty days after the filing of such exceptions, bring to the Supreme Court the record and proofs, or such parts thereof as may be necessary to enable the Court to pass upon such exceptions. The commissioners, upon re-

quest of the respondent and payment of the actual cost thereof, shall certify to the Court the proofs and record, or such parts thereof as the respondent may designate. With such record the respondent shall file a printed brief and designation of excerpt from record or an abstract as provided in rules 341, 342, and 344.

(f) Upon the filing of exceptions to such report by the respondent, the Board of Governors or the Board of Managers, as the case may be, shall designate a member of the bar to file such certificates of proof, additional designation of excerpts or additional abstract, and brief as may be deemed necessary fully to advise the Court. Such additional designation or additional abstract, if any, and brief shall be filed within twenty days after the filing of the respondent's designation or abstract and brief, and respondent may file a reply brief and excerpts from record in 10 days. The number of excerpts or abstracts and briefs and the manner of their duplication and service shall be governed by rule 344.

APPENDIX III

CONCLUSION

It is apparent from what has been set forth above that, commencing with 1954, the Respondent, Peter S. Sarelas, has instituted numerous lawsuits against other members of the Bar, Masters in Chancery and various Judges. In most instances, these suits were directed at lawyers who represented individuals who were being sued by Respondent in other litigation and at judges who had ruled against Respondent in prior cases. The evidence before this Committee demonstrates conclusively that not only were these suits groundless, but that in practically every instance Respondent accompanied the suits with scurrilous and vituperative attacks upon the defendants therein.

Respondent, furthermore, in an attempt to put a halt to these disciplinary proceedings, filed two lawsuits against some of the members of this Committee and attempted to make a circus out of the Committee hearings by continually and repeatedly harassing, and directing invective at, the Commissioners and the representatives of the Committee on Inquiry.

The first canon of professional ethics of the Illinois State Bar Association and the Chicago Bar Association makes it the duty of a lawyer to maintain towards the courts a respectful attitude, not for the sake of the temporary incumbent of the judicial office, but because the proper maintenance of that office is of supreme importance. A judge should be immune from personal attack in a civil proceeding for acts within his jurisdiction. Similarly, Canon 17 proclaims it to be the duty of lawyers to treat each other with fairness and respect and to scrupulously avoid all personalities with opposing counsel.

It is the opinion of the Commissioners that the filing by an attorney of groundless lawsuits against judges and opposing attorneys, his use of insulting and defamatory language, and his offensive conduct towards the judges and opposing attorneys tends to bring the courts and the law into disrepute and tends to destroy public confidence in the bench and bar. The Commissioners, therefore, recommend that the Respondent be disbarred.

.....

Chairman: Lester Asher
Division IV

APPENDIX IV

COMMITTEE ON GRIEVANCES AND BOARD OF MANAGERS OF THE CHICAGO BAR ASSOCIATION, SITTING AS COMMISSIONERS OF THE SUPREME COURT OF ILLINOIS

In the Matter of Peter S. Sarelas, an Attorney.	Commissioner's No. 1369

ORDER

The above entitled cause having come on for consideration before the Board of Managers of the Chicago Bar Association, sitting as Commissioners of the Supreme Court of Illinois, on the Amended Report of the Committee on Grievances recommending that the Respondent, PETER S. SARELAS, be disbarred by the Supreme Court of Illinois and on the Motion of the Respondent for an extension of time to file Objections and a Request for Oral Argument, and the Commissioners being fully advised in the premises;

NOW THEREFORE IT IS ORDERED THAT:

1. The Motion of the Respondent for an extension of time to file Objections be and it hereby is denied.

2. The Request of the Respondent for Oral Argument be and it hereby is denied.

3. The Objections heretofore filed by the Respondent before the Committee on Grievances stand as his Objections to the Report, Findings as Amended and Recommendation of the Committee on Grievances before the Board of Managers, as Commissioners.

4. The Objections of the Respondent be and they hereby are overruled.

5. The Report, Findings as Amended and the Recommendation of the Committee on Grievances that the Respondent, PETER S. SARELAS, be disbarred by

the Supreme Court of Illinois be and they hereby are approved.

6. Said Report as Amended and hereby Approved be filed with the Supreme Court of Illinois on May 4th, 1970.

7. Copies of this Order be sent to all Parties and Counsel of Record.

April 23, 1970
Chicago, Illinois

FRANK GREENBERG
Frank Greenberg, President of the Chicago Bar Association, and Commissioner of the Supreme Court of Illinois

Copies of this Order sent to all Parties and Counsel of Record.

JOHN F. MCBRIDE
John F. McBride, Secretary
Committee on Grievances

Counsel for Complainant

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Chicago, Illinois

Respondent

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